

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION

JERRY L. McGLONE, II,

Plaintiff,

v.

ROSS CORRECTIONAL INSTITUTION,
et al.,

Defendants.

Case No. 2:16-cv-0054

CHIEF JUDGE EDMUND A. SARGUS, JR.
Magistrate Judge Terence P. Kemp

OPINION AND ORDER

This matter is before the Court on Plaintiff Mr. McGlone's March 21, 2016 Motion for Reconsideration of the Magistrate Judge's opinion denying his motion to appoint counsel. (ECF No. 11.) Earlier in the process, on January 26, 2016, the Magistrate Judge granted Plaintiff's Motion for Leave to Proceed *in Forma Pauperis*. (ECF No. 6.) Then, on February 24, 2016, Mr. McGlone filed his motion to appoint counsel (ECF No. 7), which was denied on March 1, 2016 (ECF No. 9.) In denying Plaintiff's motion to appoint counsel, the Magistrate Judge stated:

Since this action has not yet progressed to the point that the Court is able to evaluate the merits of plaintiff's claim, the motion for appointment of counsel is denied. *Mars v. Hanberry*, 752 F.2d 254 (6th Cir. 1985).

(ECF No. 9, at 1.)

A decision by a magistrate judge on a non-dispositive motion will be reversed by the district court on reconsideration if it is "clearly erroneous" or "contrary to law." Fed. R. Civ. P. 72(a). Considerable deference is given to the determinations of magistrate judges; however, with respect to legal conclusions, this Court must exercise independent judgment. *Little Hocking*

Water Assn. v. E.I. DuPont de Nemours and Co., No 2:09-cv-1081, 2015 U.S. Dist. Lexis 29918, at *23-24 (S.D. Ohio March 11, 2015).

The docket in this matter reflects that service of the complaint has not yet been made on the defendants, and thus, the defendants have not yet had an opportunity to respond to Plaintiff's complaint. In the posture of this matter, the Magistrate Judge's opinion that the action has not yet progressed to the point where the merits of the claim can be properly assessed is not clearly erroneous, or contrary to law. Accordingly, Plaintiff's Motion for Reconsideration (ECF No. 11) is **DENIED**.

IT IS SO ORDERED.

5-20-2016
DATE


EDMUND A. SARGUS, JR.
CHIEF UNITED STATES DISTRICT JUDGE